

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS

3
4 STUDENTS FOR FAIR ADMISSIONS, INC.,)

5 Plaintiff,)

6 v.)

7 PRESIDENT AND FELLOWS OF)
8 HARVARD COLLEGE, et al.,)

9 Defendants.)

) Civil Action

) No. 1:14-cv-14176-ADB

) Pages 1 to 23

10
11 BEFORE THE HONORABLE ALLISON D. BURROUGHS
12 UNITED STATES DISTRICT JUDGE

13
14 STATUS CONFERENCE

15 **REDACTED**

16 December 15, 2022
17 9:03 a.m.

18 John J. Moakley United States Courthouse
19 One Courthouse Way
20 Boston, Massachusetts 02210

21
22 Linda Walsh, RPR, CRR
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1 P R O C E E D I N G S

2 THE COURT: This is Civil Action 14-14176, Students
3 for Fair Admissions versus Harvard.

4 Will counsel identify themselves for the record.

5 MR. MORTARA: Your Honor, Adam Mortara here for
6 Students for Fair Admissions, along with my co-counsel from
7 Consovoy McCarthy, Patrick Strawbridge.

8 MS. ELLSWORTH: Good morning, Your Honor. Felicia
9 Ellsworth and Michelle Sandals from WilmerHale, joined by Ara
10 Gershengorn from the Office of General Counsel.

11 THE COURT: Okay. I have been through the transcripts.
12 I thought about this carefully. I researched what case law
13 there is, which turns out to be more limited than one would
14 have expected, and I'm going to tell you what I have decided.
15 I'm going to preface that by telling you that I would love some
16 buy-in from all of you.

17 I mean, I think obviously you are both going to have
18 the right to appeal it. You both are probably going to be
19 equally unhappy about what I've done. But if it is appealed,
20 obviously everything stays under seal until the appeal
21 resolves, or at least large portions of it, depending on what's
22 appealed.

23 I will tell you what I am keeping under seal. And as
24 I say, I would love some buy-in on this if we can get there. I
25 understand if we can't.

1 And we still have to deal with the motion to intervene
2 filed by the press people. Neither one of you has taken a
3 position on the motion to intervene. Do I take it it's
4 unopposed?

5 MS. ELLSWORTH: We opposed the intervention portion of
6 it, Your Honor. It's laid out in the papers, our position. So
7 we opposed intervention. We indicated we didn't oppose being
8 ordered to file something on the docket once you had ruled on
9 the pending dispute over sealing. But we do oppose
10 intervention on behalf of Harvard.

11 THE COURT: Okay.

12 MR. STRAWBRIDGE: SFFA does not oppose the
13 intervention. I think they put that in their pleading, too.
14 We informed them before they filed that we don't oppose their
15 intervention. Frankly, I just think they're entitled for a
16 limited purpose to intervene on that, but that's our position.
17 We are not going to file anything else.

18 THE COURT: Okay. I'll go back and take a look at
19 that again, hopefully before the next hearing.

20 MS. ELLSWORTH: I'm sorry. Just to clarify, we also
21 do not intend to file any further papers.

22 THE COURT: I got that. They've also asked that
23 everything be sort of filed with redactions being clear. I
24 think that's a fair request, but we can -- if you want to
25 circle back on that when you hear what I've done, you can.

1 All right. What I have -- I mean, I think you all
2 note a lot, and I will put this in the order afterwards, but my
3 take on the whole thing is that there's generally a right to
4 public access. It's not absolute. It clearly tilts towards
5 transparency, but I think it vests a fair amount of discretion
6 and the Court requires me to balance competing interests.
7 Nothing really says what those competing interests are other
8 than to sort of say it's specific to the case.

9 And one of the things that is -- one of the predominant
10 things for allowing a motion -- for allowing things to be kept
11 under seal are various third-party interests. So that's where
12 I start with on the law.

13 I am only going to keep under seal, subject to hearing
14 from you all again during this call, excerpts from two
15 different days. The two days -- we can start with -- do you
16 guys need to pull the transcripts up in front of you?

17 The first day is going to be day 7, and what I am
18 going to keep under seal on day 7 -- if anyone needs me to slow
19 down while they're pulling up the transcripts, let me know. I
20 want to be clear about this. I'm going to keep under seal from
21 day 7 page 7, lines 9 to 11, which is -- I'll read it to you.
22 It's when Mr. Lee says, [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 That is -- and then the other thing I'm going to keep

1 under seal from that same day is page 11, lines 4 through 6
2 where I say, [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 And I'm keeping those two things out because they are
6 purely Mr. Lee and my subjective observations of Mr. Khurana.
7 They are not relevant to anything. There's no substance to
8 them that's of any import to anyone. And I feel like that --
9 the fact of his brother's suicide is public, but his emotional
10 reaction to that when talking about it is clearly a matter of
11 privacy, of no import to the public whatsoever. So that's the
12 first one.

13 The second one is day 10. The excerpts are as
14 follows: Page 122, lines 6 to 11 and 7 to 25. And the last --
15 the last piece of that sentence goes on to the very top line of
16 page 123.

17 MS. ELLSWORTH: Your Honor, do you mean 17 to 25?

18 THE COURT: I meant -- I'm sorry. What did I say?

19 MS. ELLSWORTH: You said 7 to 25.

20 THE COURT: Sorry. Let me do that again. 6 to 11 and
21 17 through the end of that page through line 1 on page 123.

22 MS. ELLSWORTH: Okay.

23 THE COURT: And then line 20, the portion in quotes
24 which is "132-pound lineman." So what I have kept out is the
25 quotes from the document, just the quotes from the document.

1 What's left gives everybody a very fair flavor of what
2 happened, that there were sort of stereotypical, anti-Asian,
3 bad attempt at a joke, and then that the issue is
4 Mr. Fitzsimmons' reaction -- reaction to that, which I've left
5 in. So the only thing out of the direct quotes -- there's
6 enough in there to give a characterization, a pretty complete
7 characterization of what happened, but I still think that it's
8 dated -- it's a third-party interest of Mister -- is it Hibino
9 or Hibino? I'm not sure how you pronounce it.

10 MS. ELLSWORTH: Hibino.

11 THE COURT: Hibino. It's -- it implicates his
12 interest. He wasn't cross-examined. Exactly what he said
13 really isn't important to the discussion. What's important is
14 that a reader can know that it was inappropriate, anti-Asian,
15 stereotypical, poor attempt at a joke. I don't think any of
16 that -- I think the reader needs to know that, and I think that
17 Dean Fitzsimmons' reaction to that is fair game, but I don't
18 think there's any need to release the actual content of the
19 document. If somebody wants to go and find it on their own
20 FOIA request, they can. But I'm not -- I'm not -- given the
21 balance between the third-party interest, Dean Fitzsimmons'
22 interest, and trying to balance that with what the public needs
23 to know, I'm keeping out the direct quotes. Less than a page,
24 way less than a page, actually, and that's where I am on it.

25 So, Mr. Strawbridge, do you want to -- what are you

1 going to do next?

2 MR. STRAWBRIDGE: I think that the redactions on first
3 blush seem fine to us. It does not seem like the kind of thing
4 that we would ever take an appeal on. I maybe just need a
5 little bit of clarification on that last point. Really, this
6 is just -- I need to advise my client.

7 I understand Your Honor's discussion to be directed at
8 the discussion that was on the record at the trial, and I
9 understand the reasoning there. Since we are independently
10 holding this document, if I am under some other obligation not
11 to otherwise disclose it apart from the transcript of the
12 hearing, I guess I would need to take that into account.

13 We haven't really thought about that and haven't done
14 anything, but if this is a document that we are somehow -- that
15 we obtain publicly that we are forbidden from otherwise using,
16 I guess I need to be respectful of Your Honor or understand
17 that so that we can figure out if we can do anything else.

18 But if your order is just limited to the content of
19 the transcript itself, then I don't think we have anything else
20 to say at this point. I think we're satisfied that you've
21 applied the law and I think that would be the end of it.

22 THE COURT: Well, Ms. Ellsworth can jump in on this,
23 but I don't actually think I have the authority to order you
24 not to disclose it. I'd prefer that you didn't, but you got it
25 on a FOIA request. I don't know what limitations came with the

1 FOIA production. You're subject to those, I guess. But I'm
2 not sure that I have the authority to order you not to disclose
3 what's essentially, you know, a public document.

4 MR. STRAWBRIDGE: We don't have any intention to do
5 so. I just wanted to make sure --

6 THE COURT: I wish you wouldn't, but I don't know that
7 I have the authority to keep you from doing it. And I can just
8 see if I did, Mr. Mortara would be all worked up, but I'm
9 seeking to avoid that this morning.

10 MR. MORTARA: Your Honor, you would be surprised to
11 discover that Mr. Hibino's email is not what gets me worked up
12 about what's been under seal.

13 THE COURT: I know what gets you worked up. I know
14 what gets you worked up. I think you're overworked up about
15 it. I've read it over and over again myself, and I don't think
16 there were any aspersions cast on you or your reputation that
17 you think there were, but it becomes a moot point unless
18 Ms. Ellsworth can convince me otherwise.

19 Ms. Ellsworth, your view on what's next here?

20 MS. ELLSWORTH: I first have a question or
21 clarification on this set of redactions.

22 THE COURT: Yes.

23 MS. ELLSWORTH: So I'm looking on page one-twenty --
24 the bottom of 121 and the beginning of 122 there's additional
25 quoted material from that document.

1 THE COURT: Okay. Hold on. Let me see if I missed
2 any of it. Hold on. Let me just see how I got there.

3 MS. ELLSWORTH: It starts on page -- it's really 122,
4 lines 2 through 5 that I think are also quoting from the
5 document.

6 THE COURT: Where are we? Give me that again.

7 MS. ELLSWORTH: 122, lines 2 through 5.

8 THE COURT: 122. Well --

9 MS. ELLSWORTH: I just wanted to make sure you had
10 considered that.

11 THE COURT: I have considered it. What I'm trying to
12 do is give them a flavor of it without really being awful about
13 it, I guess.

14 MS. ELLSWORTH: And I guess what I would say is I
15 understand your ruling and I agree with your articulation of
16 the law, Your Honor, and the discretion that's afforded to you.
17 I think for consistency, if we're keeping this entire, whatever
18 we're calling this document, out, it seems like the entirety of
19 it should be out.

20 THE COURT: Yeah. I actually -- I think you're right.
21 I'll take your point on that. So I would also -- so I'll add
22 to that lines 2 through 5. It was because there wasn't a
23 closed quote. I was sort of losing myself in that, but I'm
24 happy to add that.

25 MS. ELLSWORTH: And then on page 121 there is another

1 portion. It's a different document. And, again, I just want
2 to clarify or confirm that you're making a different ruling on
3 that document, which I think is a cover note to the --

4 THE COURT: Yes, I'm making a different ruling on that
5 document. I want to give the public, the press, who's ever
6 interested in this, a full flavor of what happened so that they
7 can -- I think that Dean Fitzsimmons' reaction to that is fair
8 game. I think the parties do a very able job of articulating
9 their competing views of how that could be taken. I wanted
10 that fully out there. So I did differentiate between the two
11 documents.

12 MS. ELLSWORTH: Okay. So, Your Honor, I mean, I think
13 we'll probably have to -- the rulings you've made I understand.
14 You know, obviously we disagree with them. Whether we'll take
15 them any further, I think I need to confer with the client on
16 that. I'm happy to do that now, if you'd like, or we can do it
17 later. I don't know that we intend to go to the mat on any of
18 this. This has all come up because of the press interest and
19 not some sort of ongoing dispute between the parties. If you
20 want to take a five-minute recess, we can sort of do that or
21 whatever is the best for you.

22 THE COURT: What time is the next -- did we schedule
23 the next one? 10:00 or 10:30?

24 MS. ELLSWORTH: 10:00.

25 THE COURT: Do you want to just jump back on at like

1 ten of 10:00 or five of 10:00?

2 MS. ELLSWORTH: That's fine for me. Does that work
3 for you, Ara?

4 MS. GERSHENGORN: Yes, that's fine. Thanks very much.

5 THE COURT: Karen, do we need to change the time of
6 the Zoom call or can we all just jump on a little early?

7 THE CLERK: Well, this is a separate Zoom link. I did
8 two so people couldn't get on this one.

9 THE COURT: All right.

10 THE CLERK: So we can still use this one for the
11 sealed stuff and then use the other when we're done, jump on.

12 THE COURT: Can we jump on the other one and only let
13 these people in?

14 THE CLERK: Uh-huh.

15 THE COURT: And can we do it at ten of 10:00 without
16 sending out another link?

17 THE CLERK: Yes.

18 THE COURT: What would people prefer? Break now or
19 just giving them some time and letting --

20 MR. STRAWBRIDGE: We have no position on this, Your
21 Honor.

22 THE COURT: Ms. Ellsworth or Ms. Gershengorn, either
23 one of you, do you care? I am just trying to give you a little
24 more time. I don't want to put you under a five-minute
25 timeframe.

1 MS. ELLSWORTH: Why don't we plan at 9:50 to get on
2 the public Zoom link with just this group and then we'll let
3 you know if there's anything different to discuss, and then we
4 can go on the public hearing.

5 THE COURT: Okay.

6 MS. ELLSWORTH: Your Honor's request that to the
7 extent that we don't have an issue with it or don't intend to
8 take it up any further, then you would like us to be able to
9 say that, so I just wanted to have some time.

10 THE COURT: Right. What I would like to be able to do
11 is, you know, put it on the docket sooner rather than later if
12 there's not going to be an appeal on it. But I think -- yeah,
13 so I would like to get it done.

14 MS. ELLSWORTH: So the one other question I have is
15 you are maintaining under seal the portion that at least the
16 parties agreed could be maintained under seal that we discussed
17 last week; right?

18 THE COURT: That's day 6; right?

19 MS. ELLSWORTH: Yes.

20 THE COURT: Yes, that will stay under seal, and
21 then -- I mean, I did not go back and review the things that
22 you agreed could be unsealed. So I'm working off a list of
23 what was in dispute, and I think I've looked through that list
24 accurately.

25 MR. STRAWBRIDGE: This is Patrick. Just, I think

1 that -- I think that the parties were in agreement with respect
2 to the day 6 excerpts, that those were applicant-identifying
3 information, which, of course, we have a very strong interest
4 in protecting.

5 THE COURT: Right. So what I did not do was I
6 didn't -- I didn't look at anything that you agreed on either
7 way, agreed to keep sealed or agreed to unseal. I only looked
8 at the excerpts that were in dispute.

9 MS. ELLSWORTH: That's fine.

10 THE COURT: Okay?

11 MR. STRAWBRIDGE: I mean, I assume the press is going
12 to raise that issue. It might be just worth noting, if
13 Ms. Ellsworth agrees, I think all that is what we consider
14 applicant-identifying information, which I think at the last
15 hearing the press indicated they weren't particularly
16 interested in that anyway, but if you want to make a record on
17 that part remaining under seal --

18 THE COURT: I'm happy -- I mean, I would even go so
19 far, depending on your view of it -- I mean, I'm happy -- the
20 fact that that letter was out there was, you know, covered in
21 the press. I'm happy to say that it concerns our discussion of
22 that letter. I mean, you know, that would help keep the, you
23 know, the forces at bay. And I do intend --

24 MS. ELLSWORTH: I think you did that, Your Honor. I
25 think you did that at the public hearing two weeks ago.

1 THE COURT: I -- also, I do intend to sort of
2 generally describe to them what I'm keeping under seal. I want
3 to give them as -- I want to discourage further action on these
4 topics. And it's such a limited amount that I'm now keeping
5 under seal that I don't think anybody really has cause to
6 complain, but the press seems -- this is a principle they often
7 stand strongly on. So, all right. So we'll rejoin at ten of
8 10:00, okay, on the public link.

9 MR. STRAWBRIDGE: Thank you.

10 THE COURT: Thanks, everyone. Recess for now.

11 MS. ELLSWORTH: Thank you.

12 (Recess taken from 9:21 to 9:52 a.m.)

13 THE COURT: I don't think we need to call the case
14 again. So I guess, Ms. Ellsworth, where are we?

15 MS. ELLSWORTH: So we might need to call the case
16 because there are a few places that I want -- I think there are
17 a few additional redactions that might be, or at least I would
18 like to argue for, for consistency on that day 10.

19 THE COURT: Okay. Go ahead and call the case, please,
20 Karen.

21 THE CLERK: Okay. This is Civil Action 14-14176, SFFA
22 versus Harvard.

23 Will counsel identify themselves for the record.

24 MR. STRAWBRIDGE: For SFFA, Patrick Strawbridge, along
25 with Adam Mortara.

1 MS. ELLSWORTH: For Harvard, Felicia Ellsworth and
2 Michelle Sandals and Ara Gershengorn from the Office of General
3 Counsel. May I proceed, Your Honor?

4 THE COURT: Yes, go ahead.

5 MS. ELLSWORTH: So we're on day 10 of the sealed
6 sidebar. There are two --

7 THE COURT: Okay. Hold on. I have to pull day 10
8 here.

9 MS. ELLSWORTH: Page 121 is where it begins.

10 THE COURT: Hold on. I'm not sure what I did with
11 that pile. Of course it's the one pile I can't find. I can't
12 put my hands on these -- on the -- all right. Go ahead.

13 MS. ELLSWORTH: On page 123, Your Honor, in line 20
14 you indicated the quote from the document that's being redacted
15 on the previous page, the 132-pound lineman quote would be
16 redacted.

17 THE COURT: Yes.

18 MS. ELLSWORTH: On lines 16 and 17 in that same
19 paragraph, there's another quote from what's being redacted on
20 the previous page, which is just another AA CJer.

21 THE COURT: I'm going to leave that one in.

22 MS. ELLSWORTH: Okay.

23 THE COURT: I want there to be a full flavor of that
24 without going into the real specifics of it. And the AA CJer
25 part is already in at other places.

1 MS. ELLSWORTH: So then on -- a little higher up on
2 page 123, there's a reference to another third party. So I
3 think for consistency with the sort of basis for your ruling
4 about Mr. Hibino's email, there's a reference to [REDACTED]
5 "[REDACTED] passed away a few years ago." It's a former employee
6 of the admissions office. That's her personal information.
7 She died in 2008 I believe it is. So I suggest that the
8 reference to that sentence, "[REDACTED] passed away a few years
9 ago and I had forgotten she had such a sense of humor" should
10 be redacted to protect third-party privacy.

11 THE COURT: Well, the thing is it doesn't have
12 anything to do with her; right? He says it wasn't her. He
13 stole the paper, stole the stationery. I can see my way clear
14 to taking out her name, but I don't see that it prejudices her
15 in any way. She's -- there's so much of this left in that one
16 understands that she didn't have anything to do with it.

17 MS. ELLSWORTH: So her name appears on 123, 121, and
18 125, [REDACTED], three different times.

19 THE COURT: I mean -- I mean, it doesn't have anything
20 to do with her.

21 MS. ELLSWORTH: It doesn't, but it's a transcript that
22 has her name in it. It has her full name on the preceding
23 page; right? [REDACTED] -- oh, sorry. [REDACTED],
24 at one time the associate director of admissions, and then it
25 talks about [REDACTED] sense of humor. There's references to

1 this uninvolved third party, deceased third party, sort of no
2 relation to this case, and her own personal information. It
3 seems both on the law and also for consistency that that
4 information should also not be made public.

5 THE COURT: Mr. Strawbridge, what's your view of
6 taking out just her name in those three places?

7 MR. STRAWBRIDGE: I don't know that we have a strong
8 view on this, but I think that given Your Honor's prior
9 rulings, the disclosure of the fact that somebody worked for
10 the Harvard Admissions Office is not top secret. It's actually
11 the subject of massive amounts of testimony and other writing
12 about this trial. I think it's slicing the baloney a little
13 thin is our official position.

14 THE COURT: I'm going to remember that one. I don't
15 know. I mean, I'll take her name out if you want, but I
16 just -- I don't really see that it --

17 MS. ELLSWORTH: Listen, we think that for the privacy
18 interests of a third party, in particularly something like this
19 that is now being sought after -- you know, in the normal
20 course maybe nobody would have looked at it, but given the
21 dispute that's arisen over this, to have this person's name out
22 there in connection with an otherwise partially redacted
23 discussion that may be the subject of some interest, it seems
24 unnecessary.

25 THE COURT: But also --

1 MR. STRAWBRIDGE: I do need to -- sorry.

2 THE COURT: Go ahead, Mr. Strawbridge.

3 MR. STRAWBRIDGE: I just wanted to respond to that. I
4 don't think the fact that the press is asking questions about
5 it can provide any additional basis for sealing it.

6 THE COURT: You know, I -- she's completely not
7 involved in this, but I will -- because I think it doesn't
8 matter and it is a third party, I'll take it out. So 121.
9 Where else?

10 MS. ELLSWORTH: So it's 121, and her name is on line
11 23.

12 THE COURT: Yeah.

13 MS. ELLSWORTH: 123, line 6.

14 THE COURT: Okay. Hold on a second. 123, okay.

15 MS. ELLSWORTH: And 125, line 6.

16 THE COURT: Okay.

17 MS. ELLSWORTH: Well, I don't know what Your Honor had
18 in mind in terms of how to proceed mechanically or
19 operationally from here. We could prepare a less redacted or
20 less highlighted version of this and submit it to
21 Mr. Strawbridge and to Ms. Folan to make sure we correctly
22 identified your rulings in terms of where on the lines and
23 pages things are going to be redacted.

24 I want to make sure our notes are correct on this
25 before we -- I don't know what kind of ruling or order you're

1 planning to make on it. And so we're happy to do that, and we
2 could do that by the end of the day today to just make sure we
3 are all on the same page literally and figuratively.

4 THE COURT: Let me go through them one more time, and
5 if you want to wait -- I will try to get an order out on it by
6 tomorrow, if you want to hold up on that. But if you want to
7 file it today, which would be great, we can be very clear about
8 what we're keeping out.

9 MS. ELLSWORTH: I'm happy to wait for your order, Your
10 Honor. I just wanted to make sure that we knew the order of
11 operations.

12 THE COURT: Is that all right with you,
13 Mr. Strawbridge, if she waits until I get my order out, or do
14 you think it's more pressing than that?

15 MR. STRAWBRIDGE: I guess I don't have a position.
16 The difference between today and tomorrow doesn't seem material
17 to me.

18 THE COURT: I'm not positive I can get it out
19 tomorrow, but that will be my -- if not tomorrow, Monday.

20 MS. ELLSWORTH: And just to be clear, Your Honor, the
21 order would be here's what I am keeping under seal --

22 THE COURT: And why.

23 MS. ELLSWORTH: -- and why, and then accompanying the
24 order would you be attaching or are you going to be directing
25 the parties to file the transcripts?

1 THE COURT: I could do either, but I would prefer to
2 direct the parties to do it.

3 MS. ELLSWORTH: Okay. That's fine. We're happy to do
4 it. I need to confer with Mr. Strawbridge about that, but I
5 think we would want until early next week to just ensure that,
6 once we see the fullness of your order, that we in fact would
7 go ahead and file as opposed to trying to take some further
8 action. I don't think currently we intend to do that, but I do
9 want to just make sure we see the order before we have to --

10 THE COURT: I don't want this to linger too long.

11 MS. ELLSWORTH: Understood. If it could be like
12 Tuesday or Wednesday of next week, that's enough time.

13 THE COURT: How about we give you 48 hours after I get
14 my order out?

15 MR. STRAWBRIDGE: That's what I was going to suggest,
16 Your Honor, so I think it's a great idea.

17 THE COURT: All right.

18 MS. ELLSWORTH: 48 hours. If your order is on a
19 Friday, would that include the weekend?

20 THE COURT: 48 work hours.

21 MS. ELLSWORTH: That would be fine. Thank you. I
22 appreciate it.

23 THE COURT: Let's say weekday hours because I don't
24 know when anybody works these days.

25 MS. ELLSWORTH: Or two business days.

1 THE COURT: Do you want me to go through again -- I'm
2 going to go through this carefully on the record about what I'm
3 keeping out and why.

4 MS. ELLSWORTH: I don't think we need -- at least from
5 Harvard's perspective, particularly since you'll be issuing an
6 order as well, I don't think we need to go through that exercise.

7 THE COURT: Okay. I want to go through the exercise.
8 Karen says not many people are signed up for this public hearing.

9 THE CLERK: So far there's seven people in there.

10 THE COURT: So I want to go through it.

11 Ms. Ellsworth, I took a quick look. I'm not sure
12 where I see either one of you actually responded to the motion
13 to intervene, but I've looked at what they've asked for, which
14 is three things, and we're basically giving them the three
15 things they want. So I am going to deny the motion for
16 intervention as unnecessary at this point.

17 MS. ELLSWORTH: That's fine. I think our response is
18 in their Local Rule 36(b) conference.

19 THE COURT: Okay. All right. I thought he said their
20 motion. I have their motion in front of me and couldn't find
21 it. Oh, wait. Let's see. Yes, I see it. You're right.
22 Okay. I see it. Okay.

23 So we're at 10:02. Karen, do you want to let in the
24 seven?

25 (Adjourned, 10:02 a.m.)

1 CERTIFICATE OF OFFICIAL REPORTER

2

3 I, Linda Walsh, Registered Professional Reporter

4 and Certified Realtime Reporter, in and for the United States

5 District Court for the District of Massachusetts, do hereby

6 certify that the foregoing transcript is a true and correct

7 transcript of the stenographically reported proceedings held in

8 the above-entitled matter, to the best of my skill and ability.

9 Dated this 9th day of January, 2023.

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12 /s/ Linda Walsh

13 Linda Walsh, RPR, CRR

14 Official Court Reporter

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